

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Change of Zone #3370

DATE: October 2, 2002

SCHEDULED PLANNING COMMISSION

October 16, 2002

PROPOSAL: A change of zone from AG Agriculture to AGR Agricultural Residential

LAND AREA: 214.43 Acres, more or less

CONCLUSION: This is not in conformance with the adopted 2025 Comprehensive Plan, the Mayor's position paper on acreages, or the primary character of the area. This is related to a Comprehensive Plan request that was deferred for review and action this summer as part of the follow up to the 2025 Plan.

<u>RECOMMENDATION:</u>	Denial if the Comprehensive plan amendment is denied Approval if the Plan is amended to show Low Density Residential
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 14, 16, 18, 19 and a 27.25 acre parcel in Section 18, T 9 N, R 8 E of the 6th P.M., Lancaster County NE.

LOCATION: Generally located at the southeast corner of S. 112th St. and Old Cheney Rd.

APPLICANT:

Connie Heier
2600 South 13th Street
Walton, NE 68461
(402)

Patricia Slaughter
507 Red Bird Lane
South Sioux City, NE 68776

OWNER: same

CONTACT:

Kent Seacrest
1111 Lincoln Mall, Suite 350
Lincoln, NE 68508
(402) 435-6000

EXISTING ZONING: AG Agriculture

EXISTING LAND USE: Farmland and a farm pond

SURROUNDING LAND USE AND ZONING:

North: Ag land, zoned AG Agriculture

South: Five acreages abutting to the south, Ag land to the south, Hidden Valley Golf Course to the southwest; zoned AG Agriculture

East: Agriculture, Zoned AG Agriculture

West: Agriculture and acreages (Hidden Valley Estates), Zoned AG Agriculture and AGR Agriculture Residential

ASSOCIATED APPLICATIONS: This relates to Comprehensive Plan Amendment #02002 Proposal #4 requesting it be shown as Low Density Residential.

HISTORY: Changed from County AA Rural and Public Use to AG Agriculture in the **1979** Zoning Update.

COMPREHENSIVE PLAN SPECIFICATIONS:

The 2025 Comprehensive Plan shows this as Agricultural on the Land Use Plan. This is shown in the Tier II growth area (25-50 year growth area). The plan states;

In determining areas of higher density rural acreage (200 units or more per square mile), numerous factors will be reviewed, such as but not limited to water and rural water districts, soil conditions, roads, agricultural productivity, land parcelization, amount of existing acreages, and plans for urban or town development. Acreages should develop in areas that best reflect the carrying capacity of that area for acreages. A performance criteria should be developed to review requests for acreage zoning and to determine where these standards can best be met. Page F 70

New urban acreage development is not encouraged in the Plan Vision Tier I areas for Lincoln, except for areas already zoned, previously designated for acreages or under development, in order to provide areas for future urban growth and to minimize the impact on new acreage development. This will reduce the number of acreage homeowners who would be impacted by annexation in the future. Even though acreages can be designed with infrastructure to city standards, there is still an impact on acreage owners and their families during annexation in terms of changes in school district, the character of the surrounding area and financial implications. Impacts to the acreage homeowners and to the City of Lincoln can be avoided by locating acreages in areas outside of the Tier I areas Page F 70

“New ‘urban acreage’ development should only be permitted in Tier II and Tier III area of Lincoln and near towns under higher design standards based upon a “buildthrough” model and without use of sanitary improvement districts. The “build through” design standards should address, along with other items deemed necessary to the study:

- a preliminary plan lot layout that accommodates first phase low density acreages with rural water and sewer systems. The preliminary plat would also show future lot splits as a second phase to permit the urban infrastructure to be built through and urbanization to occur if and when annexed by a city or town is deemed appropriate. The future lot splits will increase density in an urban form and provide income to property owners to defray the increases in city taxes, services and infrastructure costs;
- a lot layout that meets the various elements of the Comprehensive Plan; and
- a development agreement that runs with the land and acknowledges that the acreage development (i) is not entitled to extra buffering protection greater than the acreage property lines from existing agricultural practices and from future urbanization and (ii) waives any future right to protest the creation of lawful centralized sanitary sewer, water and paving special assessment districts or other lawful financing methods at a later date when urbanization is appropriate.

When the independent study to quantify and qualify the positive and negative economics of acreage development is completed, the county should determine if an impact fee or other development exactions are needed to be sure acreage development is paying its “fair share” of costs. The study should include a review of policy issues and options such as the build-through concept, lot size, acreage standards, acreages and town relationships, acreages and sensitive areas, agriculture, acreage clusters, desired acreage population, acreage size and land use consumption and AGR zoning. (page F79)

UTILITIES: There is no public sewer available. This area is in Lancaster Rural Water District #1.

TOPOGRAPHY: Gently rolling hills, falling off to the northeast.

TRAFFIC ANALYSIS: Old Cheney Road is paved west and gravel east of 112th Street. Pine Lake Road is paved west and gravel east of 112th Street. 112th and 120th streets are gravel county roads. Old Cheney Road is shown for future grading and paving in the County Engineers 1-6 year road program.

PUBLIC SERVICE: This area is served by the Cheney Public School District , the Bennet Rural Fire District, and is in the Norris Public Power District service area.

REGIONAL ISSUES: The location and timing of acreage development and farming. Management of future Lincoln growth areas.

ENVIRONMENTAL CONCERNS: The soil rating is approximately 5.12 on a scale of 1 - 10 where 1-4 is prime agricultural soil. This is not prime agriculture soil. There is no FEMA flood plain recorded on the site. There is an existing farm pond and a future NRD farm pond is proposed at the north end of the parcel.

AESTHETIC CONSIDERATIONS: NA

ALTERNATIVE USES: Farming or 10, 20+acre parcels, perhaps 11-14 lots in an AG Community Unit Plan.

ANALYSIS:

1. This application was filed on June 4, 2002 and is scheduled to the Planning Commission with the associated plan amendment at the request of the applicant.
2. This proposal is a request for a change of zone from AG Agriculture to AGR Agriculture residential. This request is tied to Comprehensive Plan Amendment 02002, Proposal #4, to show the area as "yellow", Low Density Residential.
3. If the Plan amendment is denied, this application will not be in conformance with the Plan and should be denied or deferred pending the buildthrough and performance standards. If the amendment is approved, the request will be in conformance with the land use designation and has the same status as those areas in the prior plan that have been shown but are not yet zoned, a presumption of approval.
4. The County Engineer recommends denial. They do not recommend approval without an accompanying Preliminary Plat.
5. Engineering Services recommends the change of zone be deferred until the "build thru model" is developed.
6. The Mayor's acreage policy letter of June 11, 2002 (attached) notes that new applications follow the plan and the mayor will veto those applications prior to development of the studies and standards described in the Plan. He also notes areas shown or zoned for future acreage development will not be opposed.
7. Development potential of this land would be 10 dwelling units under the AG zoning and about 71 dwellings under AGR zoning.

8. The "buildthrough" study has not been initiated and the development of a "performance" scoring system for acreage change of zone applications has not been initiated. However, if the AGR zoning is approved, it will be difficult to deny a preliminary plat that meets the subdivision regulations.

9. This is not in character with most of the development of the area.

10. No preliminary plat or water information has been submitted with this Change of Zone.

11. The Planning Commission, during its deliberations on the 2025 Comprehensive Plan, did defer 13 site specific Plan amendment requests for consideration this summer. This is one of those requests.

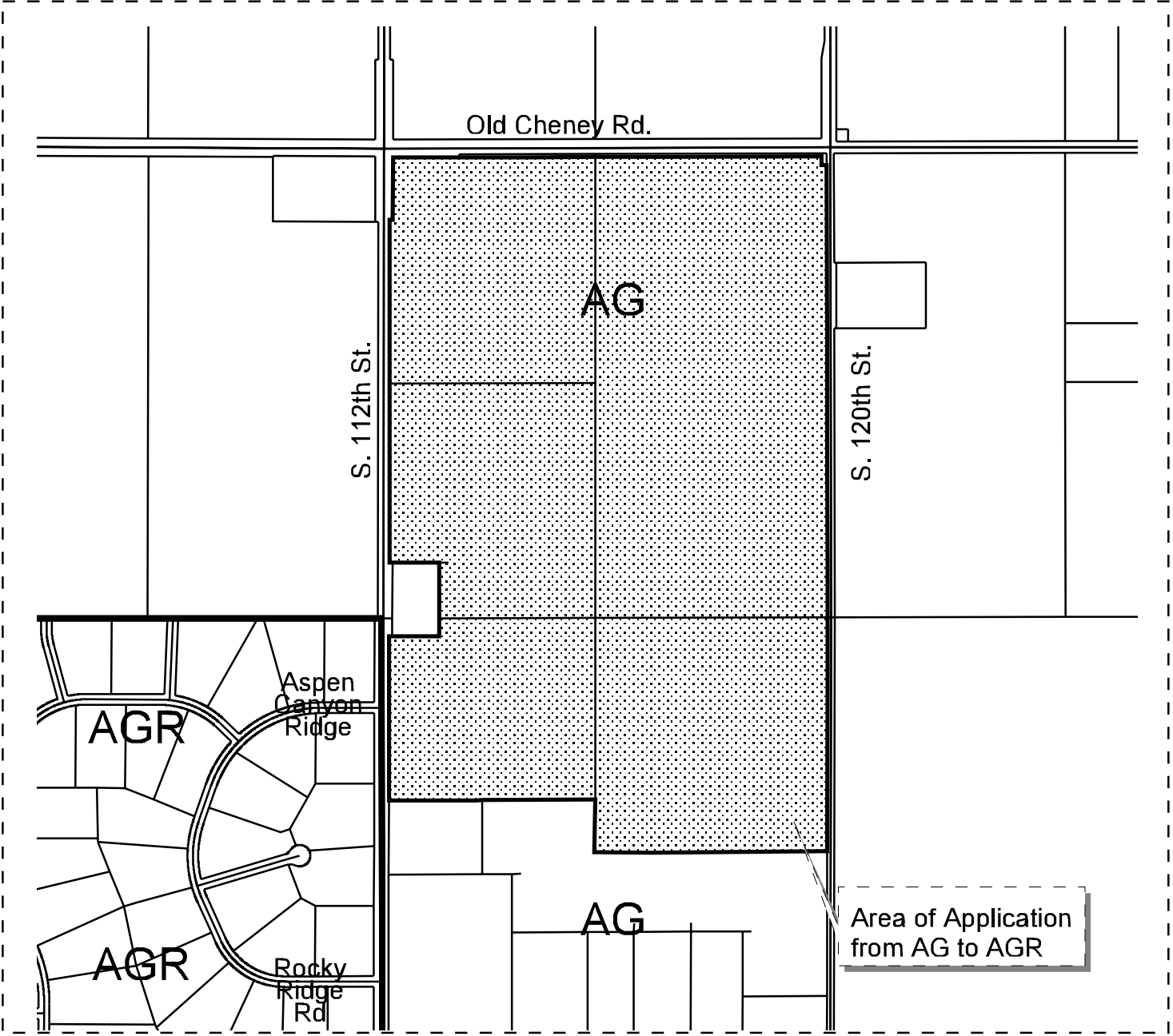
Prepared by:

Mike DeKalb, AICP
Planner



Change of Zone #3370
S. 120th & Old Cheney Rd.

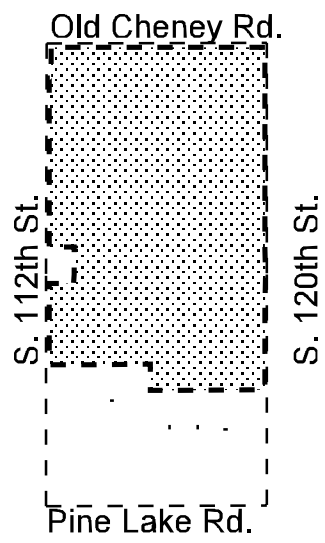
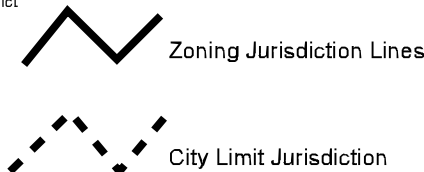




Change of Zone #3370 **S. 120th & Old Cheney Rd.**

- Zoning:**
- R-1 to R-8 Residential District
 - AG Agricultural District
 - AGR Agricultural Residential District
 - R-C Residential Conservation District
 - O-1 Office District
 - O-2 Suburban Office District
 - O-3 Office Park District
 - R-T Residential Transition District
 - B-1 Local Business District
 - B-2 Planned Neighborhood Business District
 - B-3 Commercial District
 - B-4 Lincoln Center Business District
 - B-5 Planned Regional Business District
 - H-1 Interstate Commercial District
 - H-2 Highway Business District
 - H-3 Highway Commercial District
 - H-4 General Commercial District
 - I-1 Industrial District
 - I-2 Industrial Park District
 - I-3 Employment Center District
 - P Public Use District

One Square Mile
 Sec. 18 T9N R8E



SEACREST & KALKOWSKI, P.C.

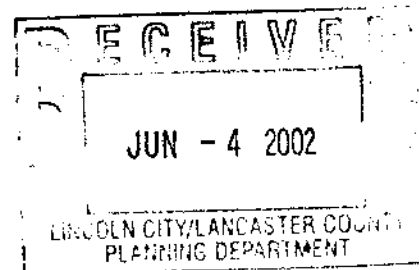
1111 LINCOLN MALL, SUITE 350
LINCOLN, NEBRASKA 68508-3905

TELEPHONE (402) 435-6000
FACSIMILE (402) 435-6100
E-MAIL: cathie@sklaw.inetnebr.com

KENT SEACREST
DANAY KALKOWSKI

June 3, 2002

Kent Morgan
Interim Planning Director
County-City Building
555 South 10th Street
Lincoln, NE 68508



RE: Request for AGR Zoning

Dear Kent:

Congratulations on guiding this community through the approval of the new Comprehensive Plan. Overall you must be pleased. I know the acreage policy did not end up the way the Planning Department wanted. However, what is important now is to work together on the new build through model.

As you know, our law firm represents Patricia Slaughter and Connie Heier in regards to their property between 112th and 120th Streets and between Old Cheney Road and Pine Lake Road, approximately 215 acres (Lots 14, 16, 18, 19 and a 27.25 acre parcel in Section 18, Township 9N, Range 8E). Previously, we submitted a comprehensive plan amendment request that the subject Property be shown as Residential, Low Density in the new Comprehensive Plan. That request was deferred by the Planning Commission, along with approximately 16 other site specific requests. It is our understanding that the comprehensive plan amendment requests will have a public hearing in front of the Planning Commission this summer.

Enclosed herein please find Change of Zone Application from AG to AGR in regard to the Property. We would appreciate it if this Change of Zone could have a public hearing the same day as our comprehensive plan amendment.

We are making this request with the commitment and understanding that the proposed acreage development on this tract would be done under a proposed build through model and not the traditional acreage model. Under normal circumstances, we would also be submitting a community unit plan/preliminary plat. However, I have advised the client not to proceed to detailed and costly engineering until there is more dialogue with the Planning Department, Public Works and County Engineer's Office as to the proposed criteria for the build through model.

The Property will be master planned to protect and enhance the proposed NRD water and stormwater improvements, wetlands and other natural open spaces. The first stage 'acreage' build out of the Property will be an AGR Community Unit Plan, based upon an average 3+ acre lot size with septic tanks and either well or Rural Water District water. The AGR lot layout, street right of way and utility corridors will be designed to accommodate urban "type" central water, sanitary sewer and other utilities when such services are available to this section of the Stevens Creek basin. The average 3+ acre lots in the first stage acreage build out will be designed to be someday individually replatted into 3 or more smaller lots (per the R-3 zone) which will accommodate urban density and the City's central utility distribution and collection systems.

This second stage 'urban' build out of development would occur if and when City urban services are available to the site based upon the orderly urban development of the Stevens Creek basin. This planned AGR first stage acreage build out/R-3 second stage urban build out will accommodate housing demands in this portion of the County and still provide the orderly and planned transition into the City limits at a later date.

We believe it is appropriate to zone the Property as Residential, Low Density in the new Comprehensive Plan for the following additional reasons:

1. The balance of Section 18, Township 9N, Range 8E to the south already includes eight (8) existing acreages.
2. Immediately across 112th Street and west of the Property, there are 44 acreage home sites known as Hidden Valley Estates and developed by Mary Joe Livingston. Hidden Valley Golf Course is also across the street to the south.
3. Old Cheney Road is already paved to the Property at 112th Street and Old Cheney Road. Lancaster County has near term plans to continue the asphalt pavement to the east and pave Old Cheney Road along the north boundary of the Property. Similarly, Pine Lake Road is already paved to this Section at 112th Street and Pine Lake Road. And again, Lancaster County has plans to extend the Pine Lake Road paving to the east along the south section line.
4. The Property can be served by the Lancaster County Rural Water District No. 1 and there already exists two Rural Water District easements on the Property.
5. The NRD's Stevens Creek Plan shows a stormwater dam in the northeast corner of the Property on 120th and Old Cheney Road. This stormwater improvement is scheduled to start and be completed by the end of 2002. Our client would like to work toward making the stormwater improvement and surrounding area a more attractive amenity.

6. Two Lincoln Public School sites, residential housing developments, a new regional shopping area and other residential amenities and support services have recently been sited within one and a half miles of the Property.

We would appreciate you processing the AGR change of zone application. If you have any questions, please do not hesitate to contact the undersigned.

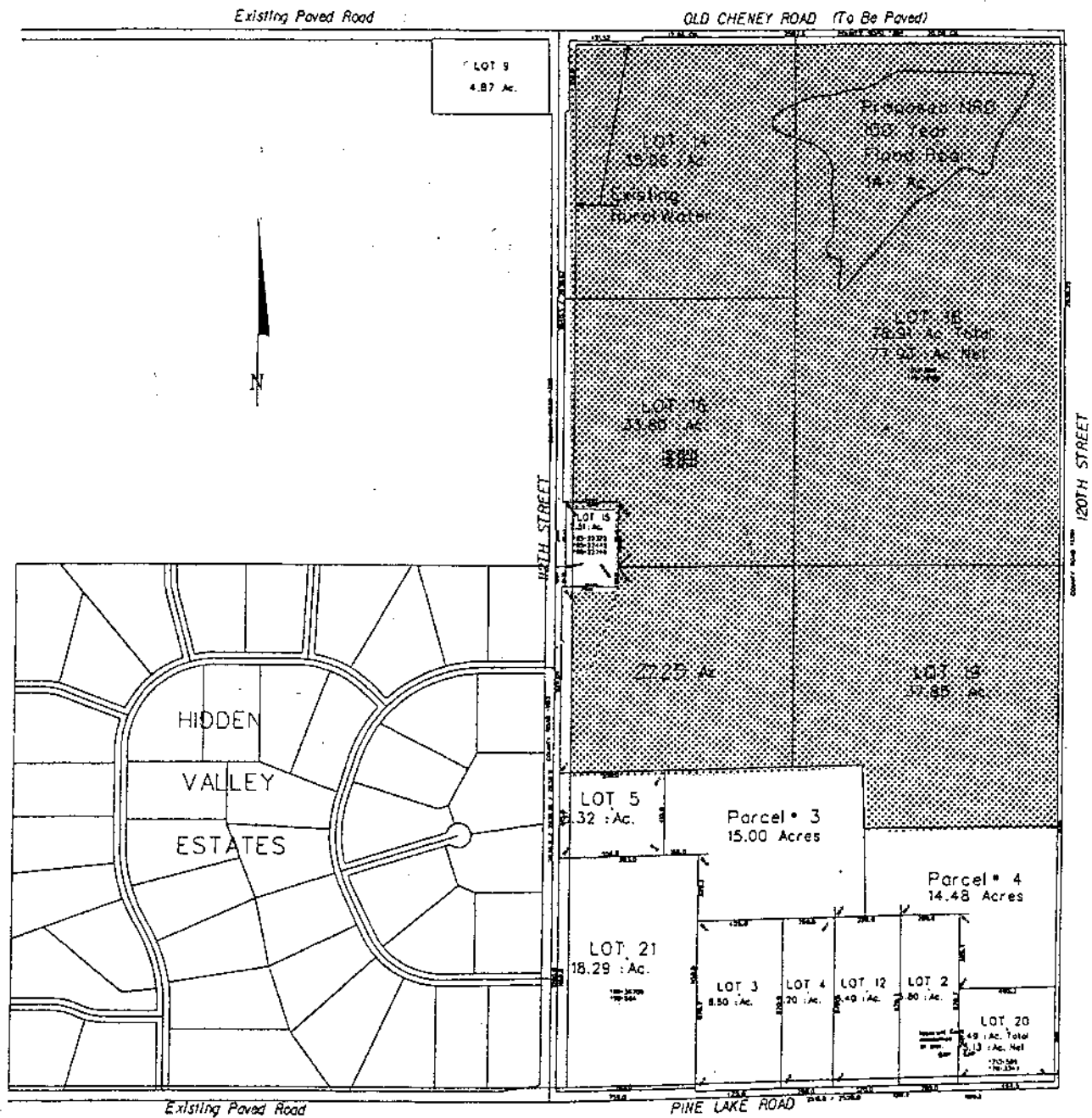
Very truly yours,



KENT SEACREST
For the Firm

Enclosure

cc with enclosure: Patricia Slaughter
Connie Heier

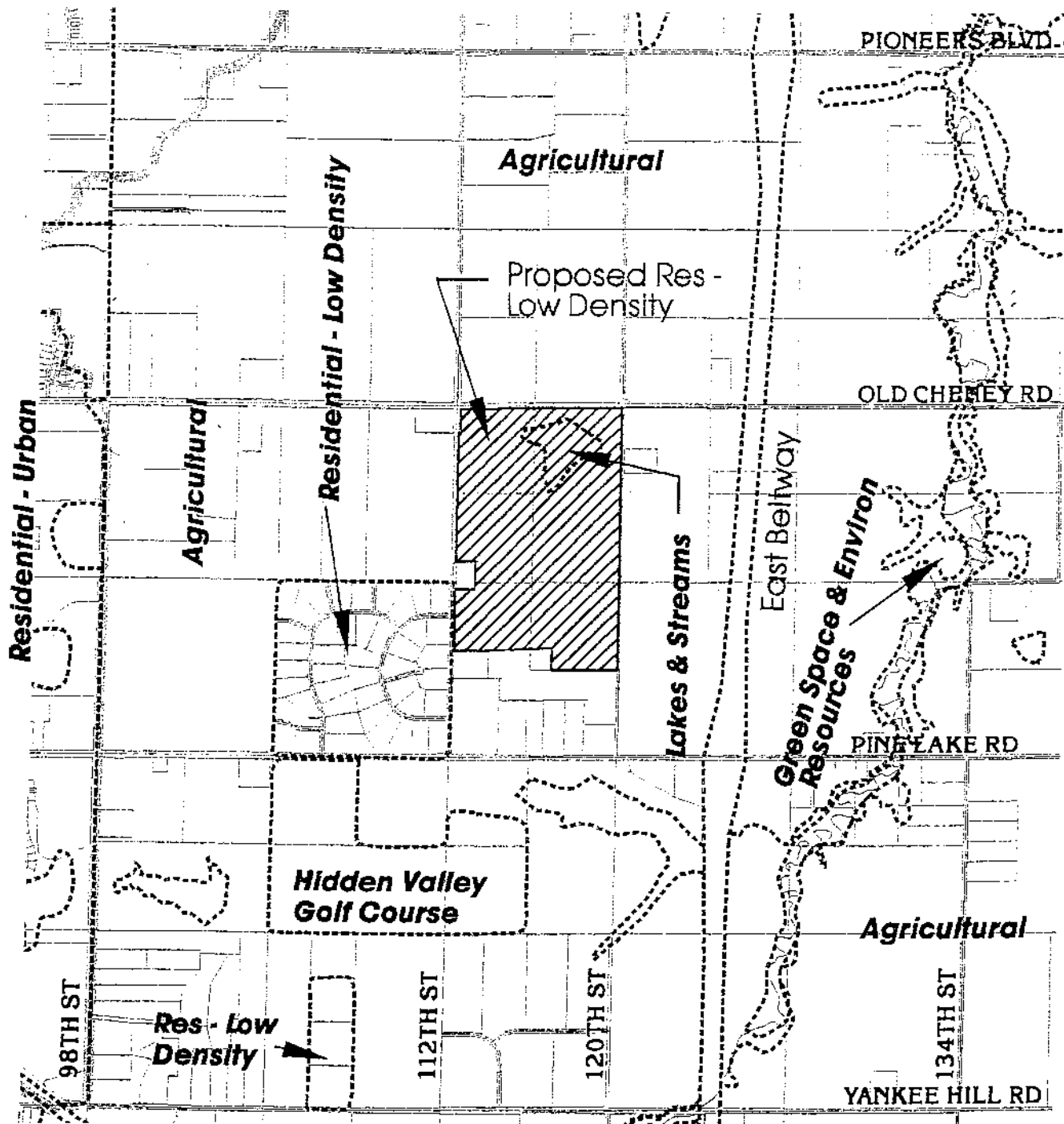


HIDDEN VALLEY
GOLF COURSE

Legal Description




Lots 14, 16, 18, 19 and a 27.25 acre ~~parcel~~ in Section 18, Township 9N, Range 8E,
Lancaster County, Nebraska

*portion of Lot 22
north of Lot 5,
1/2, 1/4*



112th & Old Cheney Rd

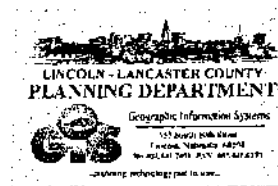
Comprehensive Plan Proposal # 4

-  Future Service Limit
-  Land Use Boundary
- Res** Land Use Category
-  From Agricultural to Res - Low Density



0 500 1000 1500
FEET

Scale: 1 inch = 2300 feet



Lincoln



Nebraska's Capital City

TO: Lincoln City Council
Lancaster County Board of Commissioners
City-County Planning Commission

FROM: Don Wesely *DW*
Mayor of Lincoln

DATE: June 11, 2002

SUBJECT: Acreage Development Policy within Lincoln's Jurisdiction

On May 28, 2002, the Lincoln City Council and Lancaster County Board adopted a new *Lincoln-Lancaster County Comprehensive Plan*. On the following day, I signed the City Council's resolution approving the Plan for the City. With these actions, we now have a new vision and set of policies to guide growth in the City and County over the next 25 years.

The City Law Department has indicated to me that the policies contained in this new Plan take effect immediately. This fact -- along with the requirement that a number of studies be completed to further refine the Plan's acreage policy -- has raised a procedural issue relative to new acreage in the Tier II and III growth areas. This issue most directly affects eight acreage development requests submitted to the Planning Department for review prior to the adoption of the new Plan.

As called for in the Plan, we need to complete three studies in order to implement our new acreage policy:

- (1) "Build Through" Design Standards, guidelines allowing for future acreage development to be converted to an urban-style configuration when they are brought into the City;
- (2) Cost of Service Review, an independent analysis of the economic and quality of life impacts of acreages; and
- (3) Performance Standard "Point System." allowing for higher density acreage development when certain criteria are met.

The Plan states that the studies should be finished within one year from the adoption of the Comprehensive Plan.

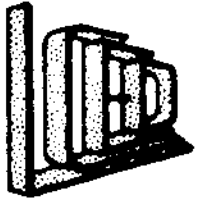
The decision facing us is how to review the acreage development applications submitted prior to the completion of the standards and studies called for in the Plan. This includes the eight applications already submitted (a.k.a., "applications prior to the Plan adoption") as well as future applications submitted after the Plan's adoption date.

Based upon my review of the situation and consideration of all reasonable options, I am proposing that we pursue the following course of action:

1. "Applications Prior to Plan Adoption" – It is my belief that the acreage development applications submitted prior to the adoption of the Comprehensive Plan on May 29th should be judged on the basis of standards formulated for the new Plan. While the applications were submitted in advance of the Plan's adoption, the rules of the new Plan apply today, and thus any application process subsequent to the Plan's approval should comply with the new standards. However, I also understand the consideration of "fairness" and the difficulty these transitional situations present in reviewing proposed development. As such, I am prepared in this case to support the Commission, Council, and Board should you choose to review these applications using the standards from the prior Comprehensive Plan. Each case will need to be judged on its own merits and a determination made as to its appropriateness.
2. Future Applications – In support of the ideas and direction of the newly adopted Comprehensive Plan, I believe that any application for an acreage subdivision, change of zone, or community unit plan submitted after May 29th, 2002, must be judged against the standards of the new Plan. As such, I am recommending that all such applications be deferred until the new review standards can be developed and approved.

Therefore, I will not support and intend to veto acreage development applications in the Tier II and Tier III areas of the Plan until the studies and standards described above are complete. (The Plan calls for no acreage developments in Tier I. Thus it is my intent to veto any acreage applications in this area even following the adoption of any new standards.) One exception that is acceptable would be to allow three acre agriculture zoned "cluster" development to occur in the Tier II and III areas where 80% or more of the land is set aside and no community systems are used.

3. Undeveloped Areas Currently Zoned and/or Shown for Acreage Development – I understand that undeveloped areas remain in the City's extraterritorial jurisdiction which are shown and/or zoned for future acreage development. In deference to the spirit of the new Plan, I will not oppose new acreage developments in these areas.
4. Pursue Study Initiatives – Lastly, I fully support the immediate initiation of work to craft the standards for acreage development as called for in the new Comprehensive Plan. Unfortunately the "Cost of Services Study" will require funding not available until the start of the City's new fiscal year in September. Until that time I have directed staff to begin work on those areas of the new standards that can be initiated in the interim so that the ultimate completion of this effort will not be delayed.



Lancaster


County

Engineering

Department

DON R. THOMAS - COUNTY ENGINEER

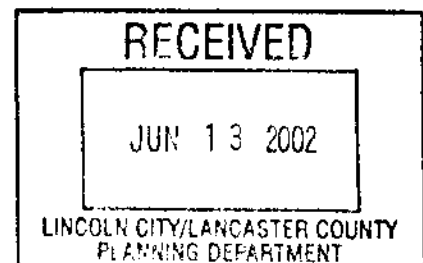
DEPUTY - LARRY V. WORRELL
COUNTY SURVEYOR

DATE: June 11, 2002
TO: Jason Reynolds
Planning Department
FROM: Larry V. Worrell 
County Surveyor
SUBJECT: CHANGE OF ZONE #3370

Upon review, this office would recommend denial of this application. The applicant has made a point of future layout relating to the breakdown or replatting of 3+ acre lots, for urban growth. When the consumer buys an acreage, they do not build for the future subdivision of their land. They build to suit their pleasure, thereby making the majority of their land useless for future urban growth.

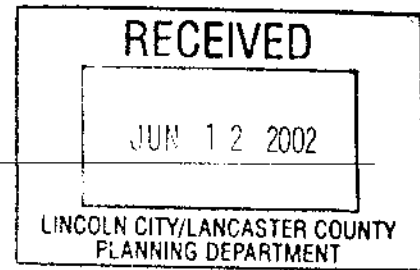
The testimony by developers that building envelopes are not needed, may not be such a bad idea to have after all.

This office would not recommend approval of a Change of Zone without the accompanying submittal of a Preliminary Plat.



LVW/bml
ZONE/#3370.MEM

M e m o r a n d u m



To: Jason Reynolds, Planning

From: ~~Jason~~ Dennis Bartels, Engineering Services

Subject: Change of Zone, AG to AGR

Date: June 11, 2002

cc: Roger Figard
Randy Hoskins
Virendra Singh

Engineering Services has reviewed the proposed change of zone from AG to AGR for property located between 112th and 120th, Old Cheney to Pine Lake and has the following comments:

1. The letter references platting this property with a proposed "build thru model." At this point, there is no "build thru model" to review this future plat against. I recommend that the change of zone and comprehensive plan amendment be deferred until the "build thru model" is defined.
2. The proposed change of zone is west of the proposed east by-pass corridor.